

The case came on for trial before Hon. Dudley Kinsell, Judge of the Superior Court, and a jury, March 24, 1920; Messrs. C. A. Linn, Frank J. Mahoney, and John W. Preston appearing for the plaintiff; and Messrs. D. C. Dutton, Greene Majors and Hartley F. Peart appearing for Dr. Majors.

After the jury was impaneled, plaintiff's counsel made their opening statement of what they expected to prove on behalf of the plaintiff; they stated that they expected to show that the little girl ran a sliver in her foot and was out of school three or four days by reason thereof, when the truant officer discovered the condition of the foot and took the child to the doctor; that the doctor lanced the swollen foot and that the condition of the child was improved on the occasion of subsequent visits to the doctor's office; that she, however, had every symptom of tetanus at a certain period during these visits and that the doctor failed to administer anti-tetanic serum, that it was not the doctor administer anti-tetanic serum, that while a prudent and careful doctor would administer anti-tetanic serum, that it was not the practice of the ordinary physician engaged in his profession at Oakland to do so, but that as a matter of law the child had a right to expect that the doctor would administer such serum, which would have given her a fifty per cent chance of recovery from the disease.

Upon such opening statement the attorneys for defendant moved for a judgment of non-suit and dismissal upon the ground that the doctor was not an insurer of results. While contending that the facts would show that when the child was first brought to Dr. Majors he found pus present and that the wound was so old that the administration of the serum would be unavailing, and that there were no symptoms of the disease present at any time while under his care, Dr. Majors' attorneys nevertheless maintained that even taking the plaintiff's statements of his expected proofs in their fullest meaning, that no judgment against the doctors could stand upon them, it not being alleged that the doctor had by unsanitary equipment or instruments infected the child or that the doctor could have saved the child's life by the use of any remedies known to the profession.

After extended arguments Judge Kinsell granted the motion and dismissed the case. Plaintiff's counsel expressed their intention of appealing to the Supreme Court.

The legal question involved is entirely novel in California, but there are decisions in eastern states sustaining the principle announced by Judge Kinsell in his decision.

CONSTITUTIONALITY OF MEDICAL PRACTICE ACT ATTACKED AND AFFIRMED

One of the profitable pastimes of various cults, who desire to make money at the expense of public health and in defiance of the laws of the state, is to attack the constitutionality of the laws that are made to safeguard the public. Almost invariably when one of these lawless incompetents is arrested for endangering the health of the community by treating and charging the sick without any known qualifications he sets up a cry that he is being persecuted by a mysterious medical trust. When a law breaker is arrested for selling real estate without a license, running an automobile without a license, hunting without a license, running a jitney without a license or any other occupation for which the state of California demands a license, there is no public clamor that the real estate trust, or the automobile trust or the hunter's trust, or the peddler's trust or the jitney drivers' trust is trying to persecute somebody. The law is made for the protection of the public and must be administered impartially to all.

The clamor of some chiropractors, a small group

of osteopaths and Chinese herbalists who either have not the qualifications to pass the easy examinations given by the State of California or refuse to recognize the authority of the state to examine them will not affect the impartial attitude of those engaged with the responsibility of enforcing and interpreting the laws.

The District Court of Appeals in a recent opinion upheld the Superior Court of Sacramento in finding T. Wah Hing, a Chinese herbalist, guilty of violating the Medical Practice Act. Hing made the old familiar attack on the Constitutionality of the law, which a few inferior newspapers filled with chiropractic and herbalist ads. seem to regard as new and meritorious.

If the construction of the law were left to these defiant chiropractors, herbalists, or to any private group as the court states, "all persons would be permitted to practice medicine or any mode or system of healing, without being licensed and would make the matter of procuring a license or certificate merely optional." The raid upon the public health that would be made by clamorous charlatans and quixotic quacks if examinations were abandoned and ignorance turned loose is fearful to contemplate.

The People of the State of California were represented by Attorney General U. S. Webb and J. Charles Jones deputy attorney general in the case against T. Wah Hing who held himself forth as ready to treat any kind of a case. Hing was tried, convicted and sentenced to imprisonment in the county jail of Sacramento for a term of four months and by a fine of \$500.

Medical Items in California Press

DR. JAMES H. THOMPSON ARRESTED AGAIN

Dr. J. H. Thompson arrested for the fifth time by the Oakland police on a charge of performing a criminal operation.—San Francisco "Examiner."

The Board of Medical Examiners at the February 1920 meeting, revoked the license of Dr. Jas. H. Thompson who caused a writ of review to be issued and the case is now pending in the Superior Court of San Francisco.

Reciprocity Certificate Denied

Tanzo Yoshinaga, Japanese physician, denied reciprocity certificate based on Wyoming credentials. He was arrested in Sacramento under the license issued to K. Isari who was at the same time in Los Angeles.—Sacramento "Bee."

FALSE TITLE PUNISHED

Dr. William Lochman of Los Angeles was found guilty of practicing under a name other than his own at a hearing before the Board of Medical Examiners in Los Angeles, February 18, 1920, and sentence was suspended until the June, 1920, meeting.—Los Angeles "Record."

COLLECTED CLIPPINGS ON MEDICAL LAW ENFORCEMENT

President of Chiropractic College Arrested Three Times

"Dr." A. W. Richardson, president of the California Chiropractic School, 209 Powell Street, San Francisco, was arrested in April on a battery complaint sworn to by Lee Landers, 1110 Fourth Avenue, Oakland. Landers said Richardson attacked him because Landers complained to the State Board of Medical Examiners that he had been fleeced by the authorities of the Powell Street College.

May 15 "Doctor" Richardson was arrested on a charge of violating the Medical Practice Act. When his case was called in Judge T. I. Fitz-

patrick's court the "Doctor" failed to appear. A bench warrant was issued for his arrest.

"Doctor" Richardson was an active advocate of Assemblyman Edwin Baker's chiropractic measure during the last session of the legislature.

More Chinese Herbalists Arraigned

We have often been asked what class of people patronize Chinese herbalists. We are unable to answer, but a number of the "herbalists" have been held to answer by various courts for practicing in violation of the law.

Among these we find Chow King of Turlock, Yung Yung Herb Co., P. Hsu Oriental Herb Co., Tom Paul and Wong Ting of San Jose. L. C. Yung and S. H. Wong were fined \$100 each by Judge M. R. McCormack in Fresno, and Poo On was sentenced by Judge J. C. Needham of Modesto to ninety days in the county jail and fined \$500 for practicing medicine without a license.

Any officer charged with the enforcement of the law who fails to prosecute law violators is encouraging contempt for the law. It is gratifying to observe that most of the district attorneys and judges realize the importance of enforcing the laws governing the practice of the healing art impartially all the time.

Chief of Medical Institute on Trial Again

Dr. Herman Silverman of Los Angeles, indicted more than two years ago on a charge of using the mails in a scheme to defraud, was put on trial before Federal Judge Trippet on March 31, 1920. Silverman conducted a "medical" institute at the time of his arrest in 1918 and at his first trial he was declared insane, being later committed to the State Hospital at Patton. He was later restored to competency and resumed practice in



Obituary

J. HENRY BARBAT, San Francisco

Dr. J. Henry Barbat, who died at his home in San Francisco on April 22, 1920, in the 58th year of his age, was a graduate of both the Department of Pharmacy and Department of Medicine of the University of California.

After his graduation in medicine in 1888 he opened his office in San Francisco and continued in practice there until his final illness. Early in his career he devoted himself to the intensive study and teaching of anatomy and soon began to specialize in surgery, later becoming recognized by his colleagues as a surgeon of great ability. The confidence and personal regard which his patients felt for him in so marked a degree was the natural reward for his skill as a surgeon and his personal qualities as a man, for he was not only a conscientious and unusually well informed surgeon and skillful operator but the sincere interest that he took in his work and his kindly and cordial manner caused his patients to regard him as their personal friend as well as medical adviser whose coming brought confidence and good cheer as well as the proper technical care of their cases.

In addition to the practice of his profession, he was actively interested in allied work. During the period of his career he was President of the State Medical Society, President of the County Medical Society, President of the City Board of Health. He was a Fellow of the American College of Surgeons, a member of the American Therapeutic Society and was also connected with and a leader in many other activities.

While recognized as a leader in his profession it was as a man that his memory will live in the hearts of all who knew and loved him as a stanch and loyal friend, always to be depended upon in prosperity or adversity.

E. B. FRICK, M. D.,
Colonel U. S. Army (Retired).

DEATHS FOR JULY

Todd, Francis Joseph. A graduate of Michigan, 1883. Licensed in California, 1894. Died in Oakland, California, April 27, 1920.

Curtis, Chas. C. San Pedro, California. A graduate of Hahnemann Medical College, Chicago Illinois, 1874. Licensed in California, 1897. Died March 17, 1920, in San Pedro, California. Age 76.

Curtis, Ralph Gardner, of Hollister, California. A graduate of Jefferson Medical College, Pa., 1901. Licensed in California, 1901. Died in San Francisco, March 22, 1920.

Zimmerman, I. M., San Diego. A graduate of University of Warsaw, Russia, 1885. Licensed in California, May 26, 1916. Died March 15, 1920.

Conrad, David A., Santa Barbara, California. A graduate of University of California, 1893. Licensed in California, 1894. Died in Santa Barbara, April 6, 1920.

Zederbaum, Adolph, Los Angeles. A graduate of University of Berlin, Germany, 1883. Licensed in California, 1917. Died in Los Angeles, May 1, 1920.

Palmer, W. H. A graduate of Willamette University, Oregon, 1889. Licensed California, 1897. Died in Napa, California, April 15, 1920.

King, Chas. Lee, of Pasadena, California. A graduate of Chicago Medical College, 1880. Licensed in California, 1894. Died in Pasadena, May 5, 1920. Was a member of the Medical Society, State of California.

Scott, G. H. A graduate of Jefferson Medical College, 1857. Licensed in California, 1898. Died in Long Beach, California, May 10, 1920. Age 90.

Valle, Chas. C. A graduate of St. Louis Medical College, Missouri, '79. Licensed in California, 1885. Died in San Diego, June 5, 1920. Age 70.

Hall, T. D. A graduate of the California Medical College, California, 1886. Died in Oakland, California, May 31, 1920. Age 71.